IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

(1) **WRIT PETITION NO. 7040 OF 2003**

Ajit Chandrakant Sancheti & Ors. ... Petitioner
Versus
Pune Merchant Co-op. Bank Ltd.
& Ors ... Respondents

ALONG WITH

(2) WRIT PETITION NO. 7039 OF 2003

Sou Shikha Ajit Sancheti & Ors. ... Petitioners
Versus
Pune Merchant Coop. Bank Ltd. ... Respondents

ALONG WITH

(3) WRIT PETITION NO. 7042 OF 2003

Shri. Ajit C. Sanchety & Ors. ... Petitioners
Versus
Pune Merchant Co-op. Bank Ltd. ... Respondents

ALOGN WTIH

(4) WRIT PETITION NO. 7036 OF 2003

Shri Ajit Chandrakant Sancheti ... Petitioner
Versus
Pune Merchant Co-op. Bank Ltd. ... Respondents

ALONG WITH

(5) WRIT PETITION NO. 7038 OF 2003

Shri. Chandrakant K. Sancheti ... Petitioner
Versus
Pune Merchant Co-op. Bank Ltd. ... Respondents

ALOGN WITH

(6) WRIT PETITION NO. 7041 OF 2003

Sou. Shikha Ajit Sancheti & Ors. ... Petitioners
Versus
Pune Merchant Co-op. Bank Ltd. ... Respondents

ALONG WITH

(7) WRIT PETITION NO. 7043 OF 2003
Sou. Shikha Ajit Sancheti ... Petitioner
Versus
Pune Merchant Coop. Bank Ltd. ... Respondents

ALONG WITH

(8) WRIT PETITION NO. 7037 OF 2003

Sou. Shikha Ajit Sancheti & Ors. ... Petitioners
Versus
Pune Merchant Coop. Bank Ltd. ... Respondents

Mr. Uday Warunjikar for Petitioners.
Mr. A.V. Anturkar for Respondent No. 1.
Mrs. M.P. Thakur, A.G.P. for State.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : FEBRUARY 20, 2006

P.C.

. This is a group of petitions in respect of which Rule was granted in October 14, 2003. From Paragraph 3 of the Order, it is clear that the Rule was granted in view of the challenge to the vires and constitutional validity to section 101 of the Maharashtra Cooperative Societies Act, 1960. A learned Bench of this court in M/s. Annapurna Engineering Corporation and Ors. Versus State of Maharashtra and Ors. in Writ Petition Nko. 3489

of 2002 decided on 11th June, 2003 has upheld the Constitutional validity of Section 101 of the M.C.S. Act, 1960. The ground on which therefore, the petition was admitted, no longer subsists.

. The learned counsel for the Petitioner however, points out that there is yet another ground. It is submitted that as the amount due is more than Rs. 10 lacs, it will be the provisions under D.R.T. Act which would be applicable. The Judgment of the Full Bench of this court has been stayed by the Apex Court. In other words, it is open to the Cooperative Banks to make recoveries.

. The Petitioner has a statutory remedy to file Revision as provided under the provisions of the M.C.S. Act. Considering that, in our opinion, nothing survives in this petition.

. Apart from that on 21.2.2004, a statement was made to this court on behalf of the Petitioner that a sum of Rs. 75 lacs. will be deposited. That amount has not yet been deposited. Various applications thereafter have been taken out. At

the hearing today, on behalf of the Petitioner, the learned counsel submitted that there are two lands which can be sold and there are willing purchasers. On behalf of the respondent bank, it is pointed out that one of the land is under acquisition under the proceedings initiated under the Land Acquisition Act and in so far as other land is concerned, though the respondent Bank had taken out proceedings under Securitization Act, the Petitioner herein has challenged the same by taking out proceedings before the D.R.T.

. As the main challenges are no longer available, we do not think this to be a fit case where the extra ordinary jurisdiction of this court should be invoked. Rule discharged in all the petitions. There shall be no order as to costs.

. The learned counsel states that if Petitioner prefers proceedings under Section 154, then the time taken should be excluded. It is always open to the Petitioner to point out to the Tribunal that the time taken before this court bonafide, should be excluded. If such contention is taken, the

tribunal to consider the same and exclude the time subject to other requirements that the Petitioner will have to satisfy while preferring the revision proceedings.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)